

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 9921 of 2005(F)

PETITIONER:

V.P. MAYA, THUMBARASSERY HOUSE,
P.O. KUZHUR, THRISSUR DISTRICT-680 734.

BY ADV. SRIELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN
SRI.NAVEEN.T
SRI.ANTONY BENEDICT

RESPONDENTS:

1. THE KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM.
2. THE DISTRICT OFFICER, KERALA PUBLIC
SERVICE COMMISSION, DISTRICT OFFICE,
THRISSUR.
3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

ADDL.RESPONDENT:

4. AJITHA P., PALLIPURATH HOUSE, P.O.PERAMBRA,
KODAKARA, THRISSUR.
(ADD.R4 IS IMPEADED AS PER ORDER DATED 26.5.2006 IN I.A. NO.6400/2006)

BY ADV. SRI.A.BIJU MANOHAR - R4
SRI.ALEXANDER THOMAS,SC,KPSC
SR.GOV'T. PLEADER SRI.R.LAKSHMI NARAYAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WPC NO.9921/2005)

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF RANKED LIST FOR THE POST OF FULL TIME JUNIOR LANGUAGE TEACHER (HINDI) IN THRISSUR DISTRICT PUBLISHED BY THE P.S.C.

EXT.P2 - TRUE COPY OF JUDGMENT DT. 9TH DECEMBER, 2004 IN O.P.NO.3589/2003 OF THIS HON'BLE COURT.

EXT.P3 - TRUE COPY OF RELINQUISHMENT LETTER GIVEN BY SMT.T.SUMA.

EXT.P4 - TRUE COPY OF RELINQUISHMENT LETTER GIVEN BY SMT.T.VIJAYA.

EXT.P5 - TRUE COPY OF THE RELINQUISHMENT LETTER DATED 23.12.2004 SUBMITTED BY ONE SMT.J.R.RIJA TO THE 2ND RESPONENT.

EXT.P6 - TRUE COPY OF THE RANKED LIST DATED 31.7.1999 PUBLISHED BY THE 2ND RESPONDENT FOR THE POST OF H.S.A. (HINDI).

EXT.P7 - TRUE COPY OF THE ADVICE LETTER DATED 22.3.2005 ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS' EXTS. NIL

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 9921 OF 2005-F

JUDGMENT

The petitioner was a candidate included in the rank-list published by the Public Service Commission for appointment to the post of Full Time Junior Language Teacher (Hindi), on 17.9.1999. She along with others filed O.P.No.3589/2003, alleging that though several vacancies were available, the appointing authority, the Deputy Director of Education, Thrissur is not reporting those vacancies. This Court issued an interim order to report 16 vacancies of Full Time Junior Language Teacher (Hindi) to the P.S.C with a stipulation that candidates to those vacancies need be advised only after getting further orders from this Court. The rank-list expired on 4.2.2004. At the time of final hearing of the above original petition, it became clear that three vacancies of Junior Language Teacher (Hindi) were available on the date of expiry of the list for being filled up from the P.S.C list. So, this Court, by Ext.P2 judgment in the said original petition, directed to advice three candidates. Though three persons from the rank-list were advised, they did not join duty, as they got employment elsewhere in the meantime. Those NJD vacancies were reported to the P.S.C by the appointing authority

on 7.5.2005. The petitioner realising that she is likely to get employment, if, to fill up those NJD vacancies, three candidates are advised, filed this writ petition. She submits, all the three candidates advised have relinquished their claim for appointment. But, their relinquishment did not satisfy the requirements of Rule 18(ii) of the Kerala Public Service Commission Rules of Procedure. Therefore, the P.S.C did not act upon them. So, this writ petition was filed, praying, inter alia, for a declaration that Rule 18(ii) of the P.S.C. Rules of Procedure is unconstitutional. The petitioner also prays for a direction to the P.S.C to advise candidates to at least one of the three vacancies which are remaining vacant as a result of the advised candidates not joining duty.

2. The Public Service Commission has filed a counter affidavit, resisting the prayers in the writ petition. The petitioner has filed a reply affidavit also. She submits, Rule 18(ii) is arbitrary and unjust and therefore, liable to be declared as unconstitutional.

3. But, in this case, I find that the NJD vacancies were reported after the expiry of the rank-list. Therefore, no candidate could be advised to those vacancies from the rank-list, which has already expired. Such NJD vacancies reported after the expiry of the rank-list will go to the candidates included in the rank-list published subsequently. This legal position is well

settled. Therefore, the legality or otherwise of the relinquishment of the candidates is not an issue which arises for decision in this writ petition. So, it is unnecessary to consider the validity of Rule 18(ii) of the P.S.C Rules of Procedure in this writ petition. Even if that Rule is not there, since the NJD vacancies were reported after the expiry of the rank-list, the petitioner cannot get any relief.

In the result, the writ petition fails and it is dismissed.

10th December, 2007.

K.BALAKRISHNAN NAIR, JUDGE.

Nm/